

WHO WERE THE SHUDRAS ?

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CHAPTER I

THE RIDDLE OF THE SHUDRAS

EVERYBODY knows that the Shudras formed the fourth Varna of the Indo-Aryan society. But very few have cared to inquire who were these Shudras and how they came to be the fourth Varna. That such an enquiry is of first-rate importance is beyond question. For, it is worth knowing how the Shudras came to occupy the fourth place, whether it was the result of evolution or it was brought about by revolution.

Any attempt to discover who the Shudras were and how they came to be the fourth Varna must begin with the origin of the *Chaturvarnya* in the Indo-Aryan society. A study of the *Chaturvarnya* must in its turn start with a study of the ninetieth Hymn of the Tenth Mandala of the Rig Veda— a Hymn, which is known by the famous name of *Purusha Sukta*.

What does the Hymn say? It says :

1. Purusha has a thousand heads, a thousand eyes, a thousand feet. On every side enveloping the earth he overpassed (it) by a space of ten fingers.
2. Purusha himself is this whole (universe), Whatever has been and whatever shall be. He is the Lord of immortality, since (or when) by food he expands.
3. Such is his greatness, and Purusha is superior to this. All existences are a quarter to him; and three-fourths of him are that which is immortal in the sky.
4. With three-quarters, Purusha mounted upwards. A quarter of him was again produced here. He was then diffused everywhere over things which eat and things which do not eat.
5. From him was born Viraj, and *from* Viraj, Purusha. When born, he extended beyond the earth, both behind and before.
6. When the gods performed a sacrifice with Purusha as the oblation, the spring was its butter, the summer its fuel, and the autumn its

(accompanying) offering.

7. This victim, Purusha, born in the beginning, they immolated on the sacrificial grass. With him the gods, the *Sadhyas*, and the *rishis* sacrificed.
8. From that universal sacrifice were provided curds and butter. It formed those aerial (creatures) and animals both wild and tame.
9. From that universal sacrifice sprang the *rik* and *saman* verses, the metres and the *yajus*.
10. From it sprang horses, and all animals with two rows of teeth; kine sprang from it; from it goats and sheep.
11. When (the gods) divided Purusha, into how many parts did they cut him up? What was his mouth? What arms (had he)? What (two objects) are said (to have been) his thighs and feet?
12. The Brahmana was his mouth, the Rajanya was made his arms; the being called the Vaishya, he was his thighs; the Shudra sprang from his feet.
13. The moon sprang from his soul (manas), the sun from the eye, Indra and Agni from his mouth and Vayu from his breath.
14. From his navel arose the air, from his head the sky, from his feet the earth, from his ear the (four) quarters; in this manner (the gods) formed the worlds.
15. When the gods, performing sacrifices, bound Purusha as a victim, there were seven sticks (stuck up) for it (around the fire), and thrice seven pieces of fuel were made.
16. With sacrifices the gods performed the sacrifice. These were the earliest rites. These great powers have sought the sky, where are the former *Sadhyas*, gods."

The *Purusha Sukta* is a theory of the origin of the Universe. In other words, it is a cosmogony. No nation which has reached an advanced degree of thought has failed to develop some sort of cosmogony. The Egyptians had a cosmogony somewhat analogous with that set out in the *Purusha Sukta*. According to it, it was god *Khnumu*, 'the shaper,' who shaped living things on the potter's wheel, "created all that is, he formed all that exists, he is the father of fathers, the mother of mothers... he fashioned men, he made the gods, he was the father from the beginning... he is the creator of the heaven, the earth, the underworld, the water, the mountains... he formed a male and a female of all birds, fishes, wild beasts, cattle and of all worms." A very similar cosmogony is found in Chapter I of the Genesis in the Old Testament.

Cosmogonies have never been more than matters of academic interest and have served no other purpose than to satisfy the curiosity of the student and to help to amuse children. This may be true of some parts of the *Purusha Sukta*. But it certainly cannot be true of the whole of it. That is because all verse of the

Purusha Sukta are not of the same importance and do not have the same significance. Verses 11 and 12 fall in one category and the rest of the verses fall in another category. Verses other than 11 and 12 may be regarded as of academic interest. Nobody relies upon them. No Hindu even remembers them. But it is quite different with regard to verses 11 and 12. *Prima facie* these verses do no more than explain how the four classes, namely, (1) Brahmins or priests, (2) Kshatriyas or soldiers, (3) Vaishyas or traders, and (4) Shudras or menials, arose from the body of the Creator. But the fact is that these verses are not understood as being merely explanatory of a cosmic phenomenon. It would be a grave mistake to suppose that they were regarded by the Indo-Aryans as an innocent piece of a poet's idle imagination. They are treated as containing a mandatory injunction from the Creator to the effect that Society must be constituted on the basis of four classes mentioned in the *Sukta*. Such a construction of the verses in question may not be warranted by their language. But there is no doubt that according to tradition this is how the verses are construed, and it would indeed be difficult to say that this traditional construction is not in consonance with the intention of the author of the *Sukta*. Verses 11 and 12 of the *Purusha Sukta* are, therefore, not a mere cosmogony. They contain a divine injunction prescribing a particular form of the constitution of society.

The constitution of society prescribed by the *Purusha Sukta* is known as *Chaturvarnya*. As a divine injunction, it naturally became the ideal of the Indo-Aryan society. This ideal of *Chaturvarnya* was the mould in which the life of the Indo-Aryan community in its early or liquid state was cast. It is this mould, which gave the Indo-Aryan community its peculiar shape and structure.

This reverence, which the Indo-Aryan society had for this ideal mould of *Chaturvarnya*, is not only beyond question, but it is also beyond description. Its influence on the Indo-Aryan society has been profound and indelible. The social order prescribed by the *Purusha Sukta* has never been questioned by anyone except Buddha. Even Buddha was not able to shake it, for the simple reason that both after the fall of Buddhism and even during the period of Buddhism there were enough law-givers, who made it their business not only to defend the ideal of the *Purusha Sukta* but to propagate it and to elaborate it.

To take a few illustrations of this propaganda in support of the *Purusha Sukta*, reference may be made to the *Apastamba Dharma Sutra* and the *Vasishtha Dharma Sutra*. The *Apastamba Dharma Sutra* states:

"There are four castes—Brahmins, Kshatriyas, Vaishyas and Shudras.

Among these, each preceding (caste) is superior by birth to the one following. For all these excepting Shudras and those who have committed bad actions are ordained (1) the initiation (*Upanayan* or the wearing of the sacred thread), (2) the study of the

Veda and (3) the kindling of the sacred fire (i.e., the right to perform sacrifice)

This is repeated by *Vasishtha Dharma* Sutra which says :

"There are four castes (Vamas), Brahmins, Kshatriyas, Vaishyas and Shudras. Three castes. Brahmins, Kshatriyas and Vaishyas (are called) twice-born. Their first birth is from their mother; the second from the investiture with the sacred girdle. In that (second birth) the Savitri is the mother, but the teacher is said to be, the father.

They call the teacher father, because he gives instruction in the Veda. The four castes are distinguished by their origin and by particular sacraments.

There is also the following passage of the Veda : "The Brahmana was his mouth, the Kshatriya formed his arms, the Vaishya his thighs; the Shudra was born from his feet."

It has been declared in the following passage that a Shudra shall not receive the sacraments."

Many other law-givers have in parrot-like manner repeated the theme of the *Purusha Sukta* and have reiterated its sanctity. It is unnecessary to repeat their version of it. All those, who had raised any opposition to the sanctity of the ideal set out in the *Purusha Sukta*, were finally laid low by Manu, the architect of the Hindu society. For Manu did two things. In the first place, he enunciated afresh the ideal of the *Purusha Sukta* as a part of divine injunction. He said:

"For the prosperity of the worlds, he (the creator) from his mouth, arms, thighs and feet created the Brahmin, Kshatriya and Vaishya and the Shudra.

The Brahmin, Kshatriya (and) Vaishya (constitute) the three twice-born castes; but the fourth the shudra has only one birth.

In this he was no doubt merely following his predecessors. But he went a step further and enunciated another proposition in which he said:

"Veda is the only and ultimate sanction for Dharma."

Bearing in mind that the *Purusha Sukta* is a part of the Veda, it cannot be difficult to realise that Manu invested the social ideal of *Chaturvarnya* contained in the *Purusha Sukta*, with a degree of divinity and infallibility which it did not have before.

II

A critical examination of the *Purusha Sukta* therefore becomes very essential.

It is claimed by the Hindus that the *Purusha Sukta* is unique. This is no doubt a tall claim for an idea which came to birth when the mind of man was primitive and was without the rich endowment of varied thought available in modern times. But there need not be much difficulty in admitting this claim provided it is understood in what respect the *Purusha Sukta* is unique.

The principal ground for regarding the *Purusha Sukta* as unique is that the ideal of social organization, namely, the ideal of *Chaturvarnya* which it upholds, is unique. Is this a sufficient ground for holding the *Purusha Sukta* as unique? The *Purusha Sukta* would really have been unique if it had preached a classless society as an ideal form of society. But what does the *Purusha Sukta* do? It preaches a class-composed society as its ideal. Can this be regarded as unique? Only a nationalist and a patriot can give an affirmative answer to this question. The existence of classes has been the *defacto* condition of every society, which is not altogether primitive. It is a normal state of society all over the world where society is in a comparatively advanced state. Looking at it from this point of view, what uniqueness can there be in the *Purusha Sukta*, when it does no more than recognise the sort of class composition that existed in the Indo-Aryan society?

Notwithstanding this, the *Purusha Sukta* must be admitted to be unique, though for quite different reasons. The unfortunate part of the matter is that many people do not know the true reasons why the *Purusha Sukta* should be regarded as unique. But once the true reasons are known, people will not only have no hesitation in accepting that the *Purusha Sukta* is a unique production of the human intellect but will perhaps be shocked to know what an extraordinary production of human ingenuity it is.

What are the features of the social ideal of the *Purusha Sukta*, which give it the hall mark of being unique? Though the existence of classes is the *de facto* condition of every society, nevertheless no society has converted this *de facto* state of affairs into a *de jure* connotation of an ideal society. The scheme of the *Purusha Sukta* is the only instance in which the real is elevated to the dignity of an ideal. This is the first unique feature of the scheme set forth in the *Purusha Sukta*. Secondly, no community has given the *de facto* state of class composition a legal effect by accepting it as a *de jure* connotation of an ideal society. The case of the Greeks is a case in point. Class composition was put forth as an ideal social structure by no less an advocate than Plato. But the Greeks never thought of making it real by giving it the sanction of law. The *Purusha Sukta* is the only instance in which an attempt was made to give reality to the ideal by invoking the sanction of law. Thirdly, no society has accepted that the class composition is an ideal. At the most they have accepted it as being natural. The *Purusha Sukta* goes further. It not only regards class composition as natural and ideal, but also regards it as sacred and divine. Fourthly, the number of the classes has never been a matter of dogma in any society known to history. The Romans had two classes. The Egyptians thought three were enough. The Indo-Iranians also had no more than three classes: (1) The *Athravans* (priests) (2) *Rathaeshtar* (warriors) and (3) the *Vastrya-fshuyat* (peasantry). The scheme of the *Purusha Sukta* makes the division of society into four classes a matter of dogma.

According to it, there can be neither more nor less. Fifthly, every society leaves a class to find its place *vis-a-vis* other classes according to its importance in society as may be determined by the forces operating from time to time. No society has an official gradation laid down, fixed and permanent, with an ascending scale of reverence and a descending scale of contempt. The scheme of the *Purusha Sukta* is unique, inasmuch as it fixes a permanent warrant of precedence among the different classes, which neither time nor circumstances can alter. The warrant of precedence is based on the principle of graded inequality among the four classes, whereby it recognises the Brahmin to be above all, the Kshatriya below the Brahmin but above the Vaishya and the Shudra, the Vaishya below the Kshatriya but above the Shudra and the Shudra below all.

III

These are the real reasons why the *Purusha Sukta* is unique. But the *Purusha Sukta* is not merely unique, it is also extraordinary. It is extraordinary because it is so full of riddles. Few seem to be aware of these riddles. But anyone who cares to inquire will learn how real in their nature and how strange in their complexion these riddles are. The cosmogony set out in the *Purusha Sukta* is not the only cosmogony one comes across in the Rig Veda. There is another cosmogony which is expounded in the 72nd Hymn of the Tenth Mandala of the Rig Veda. It reads as follows :

1. Let us proclaim with a clear voice of the generation of the gods (the divine company), who, when their praises are recited, look (favourably on the worshipper) in this latter age.
2. Brahmanaspati filled these (generations of the gods) with breath as a blacksmith (his bellows); in the first age of the gods the existent was born of the non-existent.
3. In the first age of the gods the existent was born of the non-existent; after that the quarters (of the horizon) were born, and after them the upward-growing (trees).
4. The earth was born from the upward growing (tree), the quarters were born from the earth; Daksha was born from Aditi and afterwards Aditi from Daksha.
5. Aditi, who was thy daughter, Daksha, was born; after her, the gods were born, adorable, freed from the bonds of death.
6. When, gods, you abode in this pool well-arranged, then a pungent dust went

forth from you as if you were dancing.

7. When, gods, you Filled the worlds (with your radiance) as clouds (fill the earth with rain) then you brought fourth the sun hidden in the ocean.
8. Eight sons (there were) of Aditi who were born from her body; she approached the gods with seven, she sent forth Martanda on high.
9. With seven sons Aditi went to a former generation, but she bore Martanda for the birth and death (of human beings).

The two cosmologies are fundamentally different in principle as well as in detail. The former explains creation *ex nihilo* 'being was born of non-being'. The latter ascribes creation to a being which it calls *Purusha*. Why in one and the same book two such opposite cosmologies should have come to be propounded? Why did the author of the *Purusha Sukta* think it necessary to posit a *Purusha* and make all creation emanate from' him?

Any one who reads the *Purusha Sukta* will find that it starts with the creation of donkeys, horses, goats, etc., but does not say anything about the creation of man. At a point when it would have been natural to speak of the creation of man, it breaks off the chain and proceeds to explain the origin of the classes in the Aryan society. Indeed, the *Purusha Sukta* appears to make the explaining of the four classes of the Aryan society to be its primary concern. In doing this, the *Purusha Sukta* stands in complete contrast not only with other theologies but with the other parts of the Rig Veda also.

No theology has made it its purpose to explain the origin of classes in society. Chapter I of the Genesis in the Old Testament, which can be said to be analogous in intention and purpose to the *Purusha Sukta*, does nothing more than explain how man was created. It is not that social classes did not exist in the old Jewish society. Social classes existed in all societies. The Indo-Aryans were no exception. Nevertheless, no theology has ever thought it necessary to explain how classes arise. Why then did the *Purusha Sukta* make the explanation of the origin of the social classes its primary concern?

The *Purusha Sukta* is not the only place in the Rig Veda where a discussion of the origin of creation occurs. There are other places in the Rig Veda where the same subject is referred to. In this connection, one may refer to the following passage in the Rig Veda which reads as follows :

Rig Veda, i.96.2: "By the first *nivid*, by the wisdom of Ayu, he (Agni) created these children of men; by his gleaming light the earth and the waters, the gods sustained Agni the giver of the riches."

In this, there is no reference at all to the separate creation of classes, though there is no doubt that even at the time of the *Rig Veda*, the Indo-Aryan Society had become differentiated into classes; yet the above passage in the *Rig Veda*

ignores the classes and refers to the creation of men only. Why did the *Purusha Sukta* think it necessary to go further and speak of the origin of the classes?

The *Purusha Sukta* contradicts the *Rig Veda* in another respect. The *Rig Veda* propounds a secular theory regarding the origin of the Indo-Aryans as will be seen from the following texts:

- (1) *Rig Veda*, i.80:16: "Prayers and hymns were formerly congregated in that Indra, in the ceremony which Atharvan, father Manu, and Dadhyanch celebrated.'
- (2) *Rig Veda*, i.14.2 : "Whatever prosperity or succour father Manu obtained by sacrifice, may we gain all that under thy guidance, Rudra.
- (3) *Rig Veda*, ii.33.13 : "Those pure remedies of yours, O Maruts, those which are most auspicious, ye vigorous gods, those which are beneficent, those which our father Manu chose, those and the blessing and succour of Rudra, I desire.
- (4) (4) *Rig Veda*, viii.52.1 : "The ancient friend hath been equipped with the powers of the mighty (gods). Father Manu has prepared hymns to him, as portals of access to the gods.'
- (5) *Rig Veda*, iii.3.6 : "Agni, together with the gods, and the children (*jantubhih*) of Manush, celebrating a multiform sacrifice with hymns.
- (6) *Rig Veda*, iv. 37.1 : " Ye gods, Vajas, and Ribhukshana, come to our sacrifice by the path travelled by the gods, that ye, pleasing deities, may institute a sacrifice among these people of Manush (*Manusho vikshu*) on auspicious • days."
- (7) *Rig Veda*, vi.14.2 : "The people of Manush praise in the sacrifice Agni the invoker.

From these texts it is beyond question that the rishis who were the authors of the hymns of the *Rig Veda* regarded Manu as the progenitor of the Indo-Aryans. This theory about Manu being the progenitor of the Indo-Aryans had such deep foundation that it was carried forward by the *Brahmanas* as well as the *Puranas*. It is propounded in the *Aitareya Brahmana* in the *Vishnu Parana* and the *Matsya Parana* it is true that they have made Brahma the progenitor of *Manu*; but the *Rig Veda* theory of *Manu* being the progenitor has been accepted and maintained by them Why does the *Purusha Sukta* make no mention of *Manu* ? This is strange because the author of the *Purusha Sukta* seems to be aware of the fact that Manu Svayambhuva is called *Viraj* and *Viraj* is called *Adi Purusha*, since he too speaks of *Virajo adhi Purushah* in verse five of the *Sukta*.

There is a third point in which the *Purush Sukta* has gone beyond the *Rig Veda*. The Vedic Aryans were sufficiently advanced in their civilization to give rise to division of labour. Different persons among the Vedic Aryans followed different occupations. That they were conscious of it is evidenced by the following verse:

Rig Veda, i.113.6 : "That some may go in pursuit of power, some in pursuit of fame, some in pursuit of wealth, some in pursuit of work, Ushas has awakened people so that each may go in pursuit of his special and different way of earning his livelihood."

This is as far as the *Rig Veda* had gone. The *Purusha Sukta* goes beyond. It follows up the notion of division of labour and converts the scheme of division of work into a scheme of division of workers into fixed and permanent occupational categories. Why does the *Purush Sukta* commit itself to such a perversity?

There is another point in which the *Purusha Sukta* departs from the *Rig Veda*. It is not that the *Rig Veda* speaks only of man. It speaks also of the Indo-Aryan nation. This nation was made up of the five tribes, which had become assimilated into one common Indo-Aryan people. The following hymns refer to these five tribes as moulded into a nation:

- (1) *Rig Veda*, vi.11.4 : "Agni, whom, abounding in oblations, the five tribes, bringing offerings, honour with prostrations, as if he were a man.
- (2) *Rig Veda*, vii.15.2 : "The wise and youthful master of the house (Agni) who has taken up his abode among the five tribes in every house.'

There is some difference of opinion as to who these five tribes are. *Yaska* in his *Nirukta* says that it denotes *Gandharvas*, *Pitris*, *Devas*, *Asuras* and *Rakshasas*. *Aupamanyava* says that it denotes the four *Varnas* and the *Nishadas*. Both these explanations seem to be absurd. Firstly, because the five tribes are praised collectively as in the following hymns:

- (1) *Rig Veda*, ii.2.10 : "May our glory shine aloft among the five tribes, like the heaven unsurpassable.
- (2) *Rig Veda*, vi.46.7 : "Indra, whatever force or vigour exists in the tribe of Nashusa or whatever glory belongs to the five races bring (for us).

Such laudatory statements could not have been made if the five tribes included the *Shudras*. Besides, the word used is not *Varnas*. The word used is *Janah*. That it refer to the five tribes and not to the four *Varnas* and *Nishadas* is quite clear from the following verse of the *Rig Veda*:

Rig Veda, i. 108.8: "If, O Indra and Agni, ye are abiding among the *Yodus*, *Turvasas*, *Druhyus*, *Anus*, *Purus*, come hither, vigorous heroes from all quarters, and drink the Soma which has been poured out.

That these five tribes had been moulded into one Aryan people is clear from the *Atharva Veda* (iii.24.2) which says : "these five regions, the five tribes springings from Manu."

A sense of unity and a consciousness of kind can alone explain why the *Rishis* of the *Rig Vedic* hymns came to refer to the five tribes in such manner. The questions are: why did the *Purusha Sukta* not recognise this unity of the five tribes and give a mythic explanation of their origin? Why instead did it recognise the communal divisions within the tribes? Why did the *Purusha Sukta* regard communalism more important than nationalism?

These are some of the riddles of the *Purush Sukta*, which come to light when one compares it with the *Rig Veda*. There are others, which emerge when one proceeds to examine the *Purusha Sukta* from a sociological point of view.

Ideals as norms are good and are necessary. Neither a society nor an individual can do without a norm. But a norm must change with changes in time and circumstances. No norm can be permanently fixed. There must always be room for revaluation of the values of our norm. The possibility of revaluing values remains open only when the institution is not invested with sacredness. Sacredness prevents revaluation of its values. Once sacred, always sacred. The *Purusha Sukta* makes the *Chaturvarnya* a sacred institution, a divine ordination. Why did the *Purusha Sukta* make a particular form of social order so sacred as to be beyond criticism and beyond change? Why did it want to make it a permanent ideal beyond change and even beyond criticism? This is the first riddle of the *Purusha Sukta* which strikes a student of sociology.

In propounding the doctrine of *Chaturvarnya*, the *Purush Sukta* plays a double game. It proceeds first to raise the real, namely, the existence of the four classes in the Indo-Aryan Society, to the status of an ideal. This is a deception because the ideal is in no way different from facts as they exist. After raising the real to the status of the ideal, it proceeds to make a show of giving effect to what it regards as an ideal. This again is a deception because the ideal already exists in fact. This attempt of the *Purusha Sukta* to idealise the real and to realise the ideal, is a kind of political jugglery, the like of which, I am sure, is not to be found in any other book of religion. What else is it if not a fraud and a deception? To idealise the real, which more often than not is full of inequities, is a very selfish thing to do. Only when a person finds a personal advantage in things as they are that he tries to idealise the real. To proceed to make such an ideal real is nothing short of criminal. It means perpetuating inequity on the ground that whatever is once settled is settled for all times. Such a view is opposed to all morality. No society with a social conscience has ever accepted it. On the contrary, whatever progress in improving the terms of associated life between individuals and classes has been made in the course of history, is due entirely to the recognition of the ethical doctrine that what is wrongly settled is never settled and must be resettled. The principle underlying the *Purush Sukta* is, therefore, criminal in intent and anti-social in its results. For, it aims to perpetuate an illegal gain

obtained by one class and an unjust wrong inflicted upon another. What can be the motive behind this jugglery of the *Purusha Sukta* ? This is the second riddle.

The last and the greatest of all these riddles, which emerge out of a sociological scrutiny of the *Purusha Sukta* , is the one relating to the position of the *Shudra*. The *Purusha Sukta* concerns itself with the origin of the classes, and says they were created by God—a doctrine which no theology has thought it wise to propound. This in itself is a strange thing. But what is astonishing is the plan of equating different classes to different parts of the body of the Creator. The equation of the different classes to different parts of the body is not a matter of accident. It is deliberate. The idea behind this plan seems to be to discover a formula which will solve two problems, one of fixing the functions of the four classes and the other of fixing the gradation of the four classes after a preconceived plan. The formula of equating different classes to the different parts of the body of the Creator has this advantage. The part fixes the gradation of the class and the gradation in its turn fixes the function of the class. The *Brahmin* is equated to the mouth of the Creator. Mouth being the noblest part of the anatomy, the *Brahmin* becomes the noblest of the four classes. As he is the noblest in the scale, he is given the noblest function, that of custodian of knowledge and learning. The *Kshatriya* is equated to the arms of the Creator. Among the limbs of a person, arms are next below the mouth. Consequently, the *Kshatriya* is given an order of precedence next below the *Brahmin* and is given a function which is second only to knowledge, namely, fighting. The *Vaishya* is equated to the thighs of the Creator. In the gradation of limbs the thighs are next below the arms. Consequently, the *Vaishya* is given an order of precedence next below the *Kshatriya* and is assigned a function of industry and trade which in name and fame ranks or rather did rank in ancient times below that of a warrior. The *Shudra* is equated to the feet of the Creator. The feet form the lowest and the most ignoble part of the human frame. Accordingly, the *Shudra* is placed last in the social order and is given the filthiest function, namely, to serve as a menial.

Why did the *Purusha Sukta* choose such a method of illustrating the creation of the four classes? Why did it equate the *Shudras* to the feet? Why did it not take some other illustration to show how the four classes were created. It is not that *Purusha* is the only stock simile used to explain creation. Compare the explanation of the origin of the Vedas contained in the *Chhandogya Upanishad*. It says

"Prajapati infused warmth into the worlds, and from them so heated he drew forth their essences, viz., Agni (fire) from the earth, Vayu (wind) from the air, and Surya (the sun) from the sky. He infused warmth into these three deities, and from them so heated he drew forth their essences,— from Agni the *ric* verses, from Vayu the *yajus* verses and from Surya the *saman* verses. He then

infused heat into this triple science, and from it so heated he drew forth its essences—from *ric* verses the syllable *bhuh*, from *yajus* verses *bhuvah*, and from *Saman* verses *svar*."

Here is an explanation of the origin of the Vedas from different deities. So far as the Indo-Aryans are concerned, there was no dearth of them. There were thirty crores of them. An explanation of the origin of the four *Varnas* from four gods would have maintained equality of dignity by birth of all the four classes. Why did the *Purusha Sukta* not adopt this line of explanation?

Again, would it not have been possible for the author of the *Purusha Sukta* to say that the different classes were born from the different mouths of the *Purusha*. Such a conception could not have been difficult because the *Purusha* of the *Purusha Sukta* has one thousand heads, enough to assign one species of creation to one of his heads. Such a method of explaining creation could not have been unknown to the author of the *Purusha Sukta*. For we find it used by the *Vishnu Purana* to explain the origin of the different *Vedas* as may be seen from the following extract:2

"From his eastern mouth Brahma formed the *Gayatri*, the *ric* verses, the *trivrit*, the *sama-rathantara* and of sacrifices, the *agnistoma*. From his southern mouth he created the *yajus* verses, the *tristubh* metre, the *panchadasa stoma*, the *brihatsaman*, and the *ukthya*. From his western mouth he formed the *saman* verses, the *jagati* metre, the *saptadasa stoma*, the *Vairupa*, and the *atiratra*. From his northern mouth he formed the *ekavimsa*, the *atharvan*, the *apatoryaman* with the *anushtubh* and *viraj* metres."

The *Harivansa* has another way of explaining the origin of the Vedas. According to it:

"The god fashioned the *Rig Veda* with the *Yajus* from his eyes, the *Sama Veda* from the tip of his tongue, and the *Atharvan* from his head."

Assuming that for some reason the author of the *Purusha Sukta* could not avoid using the body of the Creator and its different parts for explaining the origin and the relation of the four classes, the question still remains as to why he chose to equate the different parts of the *Purusha* to the different classes in the manner in which he does.

The importance of this question is considerably heightened when one realises that the *Purusha Sukta* is not the only instance in which the different parts of the body of the Creator are used as illustrations to explain the origin of the different classes in society. The same explanation is given by the sage *Vaishampayana* to explain the origin of the various classes of priests employed in the performance of sacrifices. But what a difference is there between the two! The explanation of *Vaishampayana* which is reported in the *Harivansa* reads as follows:

"Thus the glorious Lord Hari Narayana, covering the entire waters, slept on

the world which had become one sea, in the midst of the vast expanse of fluid (*rajas*), resembling a mighty ocean, himself free from passion (*virajaskah*), with mighty arms; Brahmans know him as the undecaying. Invested through austere fervour with the light of his own form and clothed with triple time (past, present and future) the lord then slept. *Purushotama* (Vishnu) is whatever is declared to be the highest. *Purusha* the sacrifice, and everything else which is known by the name of *Purusha*. Here how the *Brahmins* devoted to sacrifice, and called *ritvijas*, were formerly produced by him from his own body for offering sacrifices. The Lord created from his mouth the *Brahman*, who is the chief, and the *udgatri*, who chants the *Saman*, from his arms the *hotri* and the *adhvaryu*. He then... created the *prastotri*, the *maitravaruna*, and the *pratishthatri*, from his belly the *pratiharti* and the *potri*, from his thighs the *achhavaka* and the *neshtri*, from his hands the *agnidhra* and the sacrificial *brahmanya*, from his arms the *gravan* and the sacrificial *unnetri*. Thus did the divine Lord of the world create the sixteen excellent *ritvijas*, the utterers of all sacrifices. Therefore this *Purusha* is formed of sacrifice and is called the Veda; and all the Vedas with the Vedangas, Upanishads and ceremonies are formed of his essence."

There were altogether seventeen different classes of priests required for the performance of a sacrifice. It could never be possible for anyone attempting to explain the origin of each by reference to a distinct part of the body of the Creator to avoid using the feet of the *Purusha* as the origin of a class, the limbs of the *Purusha* being so few and the number of priests being so many. Yet what does *Vaishampayana* do? He does not mind using the same part of the Creator's body to explain the origin of more than one class of priests. He most studiously avoids using the feet as the origin of anyone of them.

The situation becomes completely intriguing when one compares the levity with which the *Shudras* are treated in the *Purusha Sukta* with the respect with which the *Brahmins* are treated in the *Hari-varnsa* in the matter of their respective origins. Is it because of malice that the *Purusha Sukta* did not hesitate to say that the *Shudra* was born from the feet of the *Purusha* and that his duty was to serve? If so what is the cause of this malice?

IV

The riddles about the *Shudras* mentioned above are those which arise out of a sociological scrutiny of the *Purusha Sukta*. There are other riddles regarding the position of the *Shudra* which arise out of later developments of the ideal of *Chaturvarnya*. To appreciate these results it is necessary first to take note of these later developments. The later developments of *Chaturvarnya* are mainly two. First is the creation of the fifth class next below the *Shudras*. The second is the separation of the *Shudras* from the first three *Varnas*. These changes have

become so integrated with the original scheme of the *Purusha Sukta* that they have given rise to peculiar terms and expressions so well-known that everybody understands what they stand for. These terms are : *Savarnas*, *Avarnas*, *Dvijias*, *non-Dvijias*, and *Traivarnikas*. They stand to indicate the sub-divisions of the original four classes and the degree of separation between them. It is necessary to take note of the relative position of these classes because they disclose a new riddle. If this riddle has not caught the eye of the people, it is because of two reasons. Firstly, because students have not cared to note that these names are not mere names but that they stand for definite rights and privileges, and secondly, because they have not cared to find out whether the groupings made under these names are logical having regard to the rights and privileges they connote.

Let us therefore see what is the *de jure* connotation of these terms. *Savarna* is generally contrasted with *Avarna*. *Savarna* means one who belongs to one of the four *Varnas*. *Avarna* means one who does not belong to any one of the four *Varnas*. The *Brahmins*, *Kshatriyas*, *Vaishyas* and *Shudras* are *Savarnas*. The Untouchables or *Ati-Shudras* are called *Avarnas*, those who have no *Varna*. Logically, the *Brahmins*, *Kshatriyas*, *Vaishyas* and *Shudras* are within the *Chaturvarnya*. Logically, the Untouchables or the *Ati-Shudras* are outside the *Chaturvarnya*. *Dvija* is generally contrasted with *non-Dvija*. *Dvija* literally means twice-born and *non-Dvija* means one who is born only once. The distinction is based on the right to have *Upanayana*. The *Upanayana* is treated as a second birth. Those who have the right to wear the sacred thread are called *Dvijias*. Those who have no right to wear it are called *non-Dvijias*. The *Brahmins*, *Kshatriyas* and *Vaishyas* have the right to wear the sacred thread. Logically, they are *Dvijias*. The *Shudras* and the *Ati-Shudras* have no right to wear the sacred thread. Logically, they are both *non-Dvijias*. The *Traivarnika* is contrasted with the *Shudra*. But there is nothing special in this contrast. It conveys the same distinction which is conveyed by the distinction between the *Dvijias* and the *non-Dvijias* except the fact that the contrast is limited to the *Shudra* and does not extend to the *Ati-Shudra*. This is probably because this terminology came into being before the rise of the *Ati-Shudras* as a separate class.

Bearing in mind that both the *Shudra* and the *Ati-Shudra* are *non-Dvijias*, why then is the *Shudra* regarded as *Savarna* and the *Ati-Shudra* as *Avarna* ? Why is the former within and why is the latter outside the *Chaturvarnya* ? The *Brahmins*, *Kshatriyas*, *Vaishyas* and *Shudras* are all within the four corners of the *Chaturvarnya*. They are all *Savarnas*. Why then is the *Shudra* denied the right of the *Traivarnikas* ?

Can there be a greater riddle than the riddle of the *Shudras* ? Surely, it calls for investigation and explanation as to who they were and how they came to be the

fourth *Varna* in the Aryan Society.

CHAPTER II

THE BRAHMANIC THEORY OF THE ORIGIN OF THE SHUDRAS

HAS the Brahmanic literature any explanation to offer which can account for the origin of the Shudras? There is no doubt that the Brahmanic literature is full of legends regarding creation which touch upon the creation of the universe, of man and of the different *Varnas*. Whether or not they furnish any clue to discover the origin of the Shudras, there can be no doubt that all such theories should find a place in a book which is concerned with the problem of the Shudras if for no other reason than that of assembling all material relating to the Shudras in one place and making their story complete. It would be better to take each piece of the Brahmanic literature separately, and note what contribution it has to make to the subject.

I

To begin with the *Vedas*. As to the *Rig Veda*, the legend about creation to be found in its *Sukta* known as the *Purusha Sukta* has already been set out in the previous chapter. It now remains to take note of the legends contained in the other *Vedas*.

There are two recensions of the *Yajur Veda* : (1) the White *Yajur Veda* and (2) the Black *Yajur Veda*. To take the White *Yajur Veda* first. The *Vajasaneyi Samhita* of the White *Yajur Veda* sponsors two theories. One is a mere reproduction of the *Purusha Sukta* of the *Rig Veda* with this difference that it has 22 verses, while the original as it occurs in the *Rig Veda* has only 16 verses. The six additional verses in the White *Yajur Veda* read as follows :

17. Brought forth from the waters and from the essence of the earth, he was produced by Vishvakannan in the beginning. Tvashta gives him form; that is the Universe of Purusha on all sides in the beginning.
18. I know this great Purusha, of the colour of the sun, beyond darkness. Only by knowing him does one go beyond death; there is no other path for going.
19. Prajapati moves in the interior of the womb; though unborn, he is born in many forms. Wise men see his source; wise men desire the place of the Marichis.
20. He who shines for the gods, he who is the priest of the gods, he who was born before the gods,—salutation to that shining offspring of Brahma.
21. The gods, generating the shining offspring of Brahma, said in the

beginning; "That Brahmin who knows thus,— the gods will be under his control."

22. *Sri and Laxmi are his wives; the day and night his sides; the Stars his ornament; the Ashwins his bright face. Grant me my desires; grant me that; grant me everything.*

The second explanation contained in the *Vajasaneyi Samhita* is quite different from the *Purusha Sukta*. It reads as follows :

V.S., xiv,28. *"He lauded with one. Living beings were formed. He lauded with three the brahman was created; *Brahmanaspati* was the ruler. He lauded with five existing things were created; *bhutanampati* was ruler. He lauded with seven: die seven rishis were created: *Dhatri* was the ruler. He lauded with nine: the *Fathers* were created: *Aditi* was the ruler. He lauded with eleven: the seasons were created: the *Artavas* were the rulers. He lauded with thirteen: the months were created: the year was the ruler. He lauded with fifteen: the *Kshatra* (the *Kshatriya*) was created: *Indra* was the ruler. He lauded with seventeen: animals were created: *Brihaspati* was the ruler. He lauded with nineteen: the *Shudra* and the *Arya* (*Vaishya*) were created: day and night were the rulers. He lauded with twenty-one: animals with undivided hoofs were created: *Varuna* was the ruler. He lauded with twenty-three: small animals were created: *Pushan* was the ruler. He lauded with twenty-five: wild animals were created: *Vayu* was the ruler (compare R.V., x.90.8). He lauded with twenty-seven: heaven and earth separated: *Vasus*, *Rudras* and *Adityas* separated after them: they were the rulers. He lauded with thirty-one: living beings were created: the first and second halves of the month were the rulers. He lauded with thirty one: existing things were tranquillized: *Prajapati Parameshthin* was the ruler."

Now to turn to the Black *Yajur Veda* . The *Taittiriya Samhita* of the Black *Yajur Veda* gives altogether five explanations. The one at iv. 3, 10 is the same as has been put forth by the *Vajasaneyi Samhita* of the White *Yajur Vedaa-t* (xiv.28) and which has been reproduced earlier. Of the rest those which narrate the origin of the *Shudra* are set out below:

T.S., ii.4.13.1.—"The gods were afraid of the *Rajanya* when he was in the womb. They bound him with bonds when he was in the womb. Consequently, this *Rajanya* is born bound. If he were born unbound he would go on slaying his enemies. In regard to whatever *Rajanya* any one desires that he should be born unbound, and should go on slaying his enemies, let him offer for him this *Aindra-Barhaspatya* oblation. A *Rajanya* has the character of *Indra*, and a Brahman is *Brihaspati*. It is through the *Brahman* that anyone releases the *Rajanya* from his bond. The golden bond, a gift, manifestly releases from the bond that fetters him."

(2) T.S., vii. 1.1.4.—*Prajapad* desired, may I propagate.' He formed the Trivrit (stoma) from his mouth. After it were produced the deity Agni, the metre Gayain, the Saman (called) Rathantara, of men the Brahmin, of beasts the goats. Hence they are the chief (*mukhyah*) because they were created from the mouth (*mukhatah*). From (his) breast, from his arms, - he formed the Panchadasa (*stoma*) After it were created the god, the Indra, the Trishtubh metre, the Saman (called) Brihat, of men the *Rajanya*, of beasts the sheep. Hence they are vigorous, because they were created from vigour. From (his) middle he foamed the Saptadasa (stoma). After it were created the gods (called) the Vishvedevas, the Jagati metre, the Saman called the Vairupa of men the *Vaishya*, of beasts kine. Hence they are to be eaten, because they were created from the receptacle of food. Wherefore they are more numerous than others, for the most numerous deities were created after (the Saptadasa), From his foot he formed the Ekavimsa (Stoma.). After it were created the *Anushtubh* metre, the saman called *vairaja*, of men the *Shudra*, of beasts the horse. Hence these two, both the horse and the *Shudra*, are transporters of (other) creatures. Hence (too) the *Shudra* is incapacitated for sacrifice, because no deities were created after (the Ekavimsa). Hence (too) these two subsist by their feet, for they were created from the foot.

Coming to the *Atharva Veda*, there are altogether four explanations. One of these is the same as the *Purusha Sukta* of the *Rig Veda*. It occurs at xix.6. The others are as stated below :

- (1) A.V. iv.6.1.—The *Brahman* was born the first with ten heads and ten faces. He first drank the soma; he made poison powerless.
- (2) A.V., xv.S.I.—He (the *Vratya*) became filled with passion thence sprang the *Rajanya*.
- (3) A.V., xv.9.1.—Let the king to whose house the *Vratya* who knows this, comes as a guest, cause him to be respected as superior to himself. So doing he does no injury to his royal rank, or to his realm. From him arose the *Brahman* (*Brahmin*) and the *Kshattra* (*Kshatriya*). They said 'Into whom shall we enter,' etc.

II

To proceed to the Brahmanas. The *Satapatha Brahmana* contains six explanations. There are two which concern themselves with the creation of the *Varnas*. Of the two, the one which speaks of the origin of the *Shudras* is given below :

S.B xiv.4.2.23.—"Brahma (here, according to the commentator, existing in the form of Agni and representing the Brahmana caste) was formerly this

(universe), one only. Being one, it did not develop. It energetically created an excellent form, the Kshattra, viz., those among the gods who are powers (Kshattrani), Indra, Varuna, Soma, Rudra, Parjanya, Yama, Mrityu, Isana, Hence nothing is superior to the *Kshattra*. Therefore, the Brahmana sits below the Kshatriya at the Rajasuya sacrifice; he confers that glory on the Kshattra (the royal power). This, the Brahma, is the source of the Kshattra. Hence although the king attains supremacy, he at the end resorts to the Brahman as his source. Whoever destroys him (the Brahman) destroys his own source. He becomes most miserable, as one who has injured a superior. He did not develop. He created the Vis, viz., those classes of gods who are designated by troops, Vasus, Rudras, Adityas, Visvedevas, Maruts. He did not develop. He created the Shudra class Pushan. This earth is Pushan ; for she nourishes all that exists. He did not develop. He energetically created an excellent form. Justice (Dharma). This is the ruler (Kshattra) of, the ruler (Kshattra), namely. Justice. Hence nothing is superior to Justice. Therefore the weaker seeks (to overcome) the stronger by Justice, as by a king. This justice is truth. In consequence they say of a man who speaks truth, 'he speaks justice.' For this is both of these. This is the Brahma, Kshattra, Vis and Shudra. Through Agni it became Brahma among the gods, the Brahmana among men, through the (divine) Kshatriya a (human) Kshatriya, through the (divine) Vaishya a (human) Vaishya, through the (divine) Shudra a (human) Shudra. Wherefore it is in Agni among the gods and in a Brahman among men that they seek after an abode.

The *Taittiriya Brahman* is responsible for the following explanation:

T.B. i.2.6.7.—"The Brahmana caste is sprung from the gods; the Shudras from the Asuras."

(1) T.B., iii. 2.3.9.—"This Shudra has sprung from non-existence."

III

Here is a complete collection of all the Brahmanic speculations on the origin of the four classes and of the Shudras. The ancient Brahmins were evidently conscious of the fact that the origin of the four classes was an unusual and uncommon social phenomenon and that the place of the Shudra in it was very unnatural and that this called for some explanation. Otherwise, it would be impossible to account for these innumerable attempts to explain the origin of the *Chaturvarnya* and of the Shudra.

But what is one to say of these explanations? The variety of them is simply bewildering. Some allege that *Purusha* was the origin of the four *Varnas*, and some attribute their origin to Brahma, some to Prajapati and some to Vratya. The same source gives differing explanations. The White *Yajur Veda* has two

explanations, one in terms of *Purusha*, the other in terms of *Prajapati*. The Black *Yajur Veda* has three explanations to offer. Two are in terms of *Prajapati*, the third in terms of Brahman. The *Atharva Veda* has four explanations, one in terms of *Purusha*, second in terms of *Brahman*, third in terms of *Vratya* and fourth quite different from the first three. Even when the theory is the same, the details are not the same. Some explanations such as those in terms of *Prajapati*, or *Brahma* are theological. Others in terms of *Manu* or *Kasyapa* are in humanistic terms. It is imagination running riot. There is in them neither history nor sense. Prof. Max Muller commenting on the *Brahmanas* has said:

"The *Brahmanas* represent no doubt a most interesting phase in the history of the Indian mind, but judged by themselves, as literary productions, they are most disappointing. No one would have supposed that at so early a period, and in so primitive a state of society, there could have risen up a literature which for pedantry and downright absurdity can hardly be matched anywhere. There is no lack of striking thoughts, of bold expressions, of sound reasoning, and curious traditions in these collections. But these are only like the fragments of a torso, like precious gems set in brass and lead. The general character of these works is marked by shallow and insipid grandiloquence, by priestly conceit, and antiquarian pedantry. It is most important to the historian that he should know how soon the fresh and healthy growth of a nation can be blighted by priestcraft and superstition. It is most important that we should know that nations are liable to these epidemics in their youth as well as in their dotage. These works deserve to be studied as the physician studies the twaddle of idiots, and the raving of madmen."

On reading these Brahmanic speculations on the origin of the four *Varnas* and particularly of the *Shudras* one is very much reminded of these words of Prof. Max Muller. All these speculations are really the twaddles of idiots and ravings of madmen and as such they are of no use to the student of history who is in search of a natural explanation of a human problem.

CHAPTER III

THE BRAHMANIC THEORY OF THE STATUS OF THE SHUDRAS

So much for the Brahmanic view of the origin of the *Shudra*. Turning to the Brahmanic view of the civil status of the *Shudra*, what strikes one is the long list of (disabilities, accompanied by a most dire system of pains and penalties to which the *Shudra* is subjected by the Brahmanic law-givers.

The disabilities and penalties of the *Shudra* found in the *Samhitas* and the *Brahmanas* were few, as may be seen from the following extracts:

- I. According to the *Kathaka Samhita* (xxxi.2) and the *Maitrayani*

Samhita(iv.1.3;i.8.3)

"A shudra should not be allowed to milk the cow whose milk is used for Agnihotra."

II. The *Satapatha Brahmana* (iii.1.1.10), the *Maitrayani Samita* (vii.I.I.6) and also the *Panchavirnsa Brahmana* (vi.I.II) say:

"The Shudra must not be spoken to when performing a sacrifice and a Shudra must not be present when a sacrifice is being performed."

III. The *Satapatha Brahmana* (xiv.I.31) and the *Kathaka Samhita* (xi.IO) further provide that :

"The Shudra must not be admitted to Soma drink."

The *Aitareya Brahmana* (vii.29.4) and the *Panchavirnsa Brahmana* (vi.I.II) reached the culminating point when they say:

"Shudra is a servant of another (and cannot be anything else)."

But what in the beginning was a cloud no bigger than a man's hand, seems to have developed into a storm, which has literally overwhelmed the Shudras. For, as will be seen from the extracts given from later penal legislation by the *Sutrakaras* like *Apastamba*, *Baudhayana*, etc. and the *Smritikaras* like Manu and others, the growth of the disabilities of the Shudras has been at a maddening speed and to an extent which is quite unthinkable.

The disabilities are so deadening that it would be impossible to believe them unless one sees them in cold print. They are, however, so numerous that it is impossible to present them in their fullness. To enable those, who do not know them, to have some idea of these disabilities, I have assembled below in one place illustrative statements by the different *Sutrakaras* and *Smritikaras* relating to the disabilities of the Shudras scattered in their Law Books.

II

(I)

(A) *The Apastamba DharmaSutra* says :

"There are four castes—Brahmanas, Kshatriyas, Vaishyas and Shudras. amongst these, each preceding (caste) is superior by birth to the one following* :

For all these, excepting Shudras and those who have committed bad actions are ordained. (1) the initiation (Upanayaaa or the wearing of the sacred thread), (2) the study of the Veda and (3) the kindling of the sacred fire (i.e., the right to perform sacrifices)."

(B) This is what the *Vasishtha Dharma Sutra* says:

"There are four castes (Varna) Brahmanas, Kshatriyas, Vaishyas and Shudras.

Three castes, Brahmanas, Kshatriyas and Vaishyas (are called) twice-born.

Their first-birth is from the mother; the second from the investiture with the sacred girdle. In that (second birth) the Savitri is the mother, but the teacher is said to be the father.

They call the teacher father, because he gives instruction in the Veda.

The four castes are distinguished by their origin and by particular sacraments.

There is also the following passage of the Veda: ' The Brahmana was his mouth, the Kshatriya formed his arms: the Vaishya his thighs; the Shudra was born from his feet.'

It has been declared in the following passage of the Veda that a Shudra shall not receive the sacraments. 'He created the Brahmana with the Gayatri (metre), the Kshatriya with the Trishtubh, the Vaishya with the Jagati, the Shudra without any metre."

(C) The *Manu Smriti* propounds the following view on the subject:

"For the prosperity of the worlds, he (the creator) from his mouth, arms, thighs and feet created the Brahmana, Kshatriya, Vaishya and Shudra.

The Brahmans, Kshatriya (and) Vaishya constitute the three twice-born castes, but the fourth, the Shudra has only one birth."

(ii)

(A) The *Apastamba Dharma Sutra* says :

"(A Traivarnika) shall never study (the Veda) in a burial ground nor anywhere near it within the throw of a Sarnya.

If a village has been built over a burial ground or its surface has been cultivated as a field, the recitation of the Veda in such a place is not prohibited.

But if that place is known to have been a burial ground, he shall not study (there).

A Shudra and an outcaste are (included by the term) burial-ground, (and the rule given, Sutra 6 applies to them).

Some declare, that (one ought to avoid only to study) in the same house (where they dwell).

But if (a student and) a Shudra woman merely look at each other, the recitation of the Veda must be interrupted.

Food touched by a (Brahmana or other high-caste person) who is impure, becomes impure but not unfit for eating.

But what has been brought (be it touched or not) by an impure Shudra must not be eaten. A Shudra touches him, (then he shall leave off eating)."

(B) The *Vishnu Smriti* says :

"He must not cause a member of a twice born caste to be carried out by a Shudra (even though he be a kinsman of the deceased). Nor a Shudra by a member of a twice-born caste.

A father and a mother shall be carried out by their sons; (who are equal in caste to their parents).

But Shudras must never carry out a member of a twice-born caste, even though he be their father."

(C) The *Vasishtha Dharma Sutra* prescribes :

"Now therefore, we will declare what may be eaten and what may not be eaten.

Food given by a physician, a hunter, a woman of bad character, a mace-bearer, a thief, an Abhisasta, and eunuch, (or) an outcaste must not be eaten.

Nor that given by a miser, one who has performed the initiatory ceremony of a Srauta-sacrifice, a prisoner, a sick person, a seller of the Soma plant, a carpenter, a washerman, a dealer in spirituous liquor, a spy, an usurer, (or) a cobbler.

Nor that given by a Shudra.

Some call that Shudra race a burial-ground.

Therefore the Veda must not be recited in the presence of a Shudra."

Now they quote also the (following) verses which Yama proclaimed :

The wicked Shudra-race is manifestly a burial-ground. Therefore (the Veda) must never be recited in the presence of a Shudra.

Some become worthy receptacles of gifts through sacred learning, and some through the practice of austerities. But that Brahmana whose stomach does not contain the food of a Shudra, is even the worthiest receptacle of all.

If a Brahmana dies with the food of a Shudra in his stomach, he will become a village pig (in his next life) or be born in the family of that Shudra.

For though a (Brahmana) whose body is nourished by the essence of a Shudra's food may daily recite the Veda, though he may offer (an Agnihotra) or mutter (prayers, nevertheless) he will not find the path that leads upwards.

But if, after eating the food of a Shudra, he has conjugal intercourse, (even) his sons (begotten on a wife of his own caste) will belong to the giver of the food (i.e., to the Shudra) and he shall not ascend to heaven.

(D) *TheManuSmriti* says:

"He (Brahmin) may not dwell in the kingdom of a Shudra nor in one full of unrighteous people, nor in one invaded by hosts of heretics nor in one possessed by low-born men.

A Brahmin who performs a sacrifice for a Shudra should not be invited to dine

with other Brahmins at a Shraddha ceremony. His company will destroy all merit that which may otherwise be obtained from such a dinner.

One should carry out by the southern town-gate a dead Shudra, but the twice-born by the western, northern and eastern (gates) respectively.

(iii)

(A) The *Apastamba Dharma Sutra* says :

"A Brahmana shall salute stretching forward his right arm on a level with his ear, a Kshatriya holding it on a level with the breast, a Vaishya holding it on a level with the waist, a Shudra holding it low (and) stretching forward the joined hands.

And when returning the salute of (a man belonging) to the first (three) castes, the last syllable of the name of the person addressed is produced to the length of three moras.

If a Shudra comes as a guest (to a Brahmana) he shall give him some work to do. He may feed him, after (that has been performed. To feed him without asking him first to do some work is to do him honour.)

Or the slaves (of the Brahmana householder) shall fetch (rice) from the royal stores, and honour the Shudra as a guest."

(B) The *Vishnu Smriti* prescribes :

"The same punishment (payment of hundred Panas) is also ordained for hospitably entertaining a Shudra or religious ascetic at an oblation to the gods or to the manes."

(C) The *Manu Smriti* enjoins that :

One should consider a Brahmana ten years old and a Kshatriya a hundred years old as father and son; but of them the Brahman (is) the father.

Wealth, kindred, age, sects (and) knowledge as the fifth; those are the causes of respect, the most important (is) the last (mentioned).

In whom among the three (higher) castes the most and the best of (those) five may be he is here worthy of respect; a Shudra (is not worthy of respect on the ground of his wealth or knowledge no matter how high they are. It is only on the ground of his age and that too only if) he has attained the tenth (decade of his life that he becomes worthy of respect and not before.)

For not by years, nor by grey hair, not by wealth, nor kindred (is superiority); the seers made the rule—Who knows the Veda completely, he is great among us.

Of Brahmins, superiority (is) by knowledge, but of Kshatriyas by valour, of

Vaishyas by reason of property (and) wealth, and of Shudras by age.

One is not, therefore, aged because his head is grey; whoever, although a youth, has perused (the Vedas), him the gods consider an elder.

Now a Kshatriya is not called a guest in a Brahmin's house, nor a Vaishya nor a Shudra; neither is a friend, the kinsman, nor a Guru (of the householder). (That is, a Brahmin has alone the right to have the honour of being treated as a guest in a Brahmin's house).

But if a Kshatriya come as a guest to the house after the said Brahmins have eaten one should give him food (if) he wishes.

If a Vaishya (or) Shudra come to the house as guests, the Brahmin should give them food but with the servants, using kindness."

(iv)

(A) According to the *Apastamba Dharma Sutra* :

He who has killed a Kshatriya shall give a thousand cows (to Brahmins for the expiation of the act).

He shall give, a hundred cows for the killing of a Vaishya, (only) ten for a Shudra.

(B) According to the *Gautama Dharma Sutra* :

"A Kshatriya (shall be fined) one hundred (Karshapanas) if he abuses a Brahmana.

In case of an assault (on a Brahmana) twice as much.

A Vaishya (who abuses a Brahmana, shall pay) one and a half (times as much as a Kshatriya).

But a Brahmana (who abuses) a Kshatriya (shall pay) fifty (Karshapanas).

One half of that amount (if he abuses) a Vaishya. And if he abuses a Shudra nothing."

(C) According to *Brihaspati's Dharma Shastra* :

"For a Brahmin abusing a Kshatriya, the fine shall be half of a hundred (fifty) Panas; for abusing a Vaishya, half of fifty (twenty-five) Panas, for abusing a Shudra twelve and a half.

This punishment has been declared for abusing a virtuous Shudra (i.e., a Shudra who accepts his low status and does willingly the duties attached to that status) who has committed no wrong; no offence is imputable to a Brahmin for abusing a Shudra devoid of virtue.

A Vaishya shall be fined a hundred (Panas) for reviling a Kshatriya; a Kshatriya reviling a Vaishya shall have to pay half of that amount as a fine.

In the case of a Kshatriya reviling a Shudra the fine shall be twenty Panas; in the case of a Vaishya, the double amount is declared to be the proper fine by persons learned in law.

A Shudra shall be compelled to pay the first fine for abusing a Vaishya; the middling fine for abusing a Kshatriya; and the highest fine for abusing a Brahmin.

(D) According to the *Manu Smruti*:

"A Kshatriya who reviles a Brahmin ought to be fined one hundred (Panas); a Vaishya one hundred and fifty or two hundred, but a Shudra ought to receive corporal punishment.

A Brahmin should be fined fifty if he has thrown insult on a Kshatriya, but the fine shall be a half of fifty if on a Vaishya and twelve if on a Shudra."

In the murder of a Kshatriya, one fourth (part) of the penance for slaying a Brahman is declared to be the proper penance; an eighth part in the case of a Vaishya; and in (the case of) a Shudra (who) lives virtuously, one sixteenth part must be admitted (as the proper penance).

But if one of the highest of the twice-born (a Brahmin) slay a Kshatriya involuntarily he may, in order to cleanse himself give a thousand cows and a bull.

Or let him for three years (with senses) subdued and locks braided, follow the observances of one who has slain a Brahmin, living in a place rather far from the town, his dwelling place the foot of a tree.

The highest of a twice-born (the Brahmin) should practise just this expiation for a year on having slain a Vaishya who lives virtuously and give one hundred and one (heads) of cattle.

The slayer of a Shudra should practise exactly all these observances for six months; or he may give to a priest ten white cows and a bull.

(E) According to the *Vishnu Smriti*:

"With whatever limb an inferior insults or hurts his superior in caste, of that limb the king shall cause him to be deprived.

If he places himself on the same seat with his superior, he shall be banished with a mark on his buttocks. If he spits on him he shall lose both lips. If he breaks wind against him, he shall lose his hind parts. If he uses abusive language, his tongue.

If a low-born man through pride give instruction (to a member of the highest caste) concerning his duty, let the king order hot oil to be dropped into his mouth.

If a Shudra man mentions the name or caste of a superior revealingly, an iron pin ten inches long shall be thrust into his mouth (red hot)."

(V)

(A) According to the *Brihaspati Smriti* :

"A Shudra teaching the precepts of religion or uttering the words of the Veda, or insulting a Brahmin shall be punished by cutting out his tongue."

(B) According to the *Gautama Dharma Sutra* :

"Now if he listens intentionally to (a recitation of) the Veda, his ears shall be filled with (molten) tin or lac.

If he recites (Vedic texts), his tongue shall be cut out.

If he remembers them, his body shall be split in twain."

(C) According to the *Manu Smriti*:

One who teaches for hire, also one who learns by paying hire (a Shudra) teacher and one who learns from him are unfit for being invited at the performance in honour of the Devas and Pitris.

One may not give advice to a Shudra, nor (give him) the remains (of food) or of butter that has been offered.

And one may not teach him the law or enjoin upon him religious observances.

For he who tells him the law and he who enjoins upon him (religious) observances, he indeed together with that (Shudra) sinks into the darkness of the hell called Asamvrita.

One should never recite (the Vedas) indistinctly or in the presence of a Shudra; nor having recited the Veda at the end of the night, (though) fatigued may one sleep again. "

(vi)

This is what the *Manu Smriti* says :

"A Brahmin may take possession of the goods of a Shudra with perfect peace of mind, for, since nothing at all belongs to this Shudra as his own, he is one whose property may be taken away by his master.

Indeed, an accumulation of wealth should not be made by a Shudra even if he is able to do so, for the sight of mere possession of wealth by a Shudra injures the Brahmin."

(vii)

Here is the advice of the *Manu Smriti* to the king :

"He who can claim to be a Brahmin merely on account of his birth, or he who only calls himself a Brahmin, may be, if desired, the declarer of law for the king, but a Shudra never.

If a king looks on while a Shudra gives a judicial decision, his realm sinks into

misfortune, like a cow in a quagmire.

A realm which consists chiefly of Shudras and is overrun by unbelievers and destitute of twice-born men is soon totally destroyed, oppressed by famine and disease."

(viii)

(A) The *Apastamba Dharma Sutra* says:

"And those who perform austerities, being intent on fulfilling the sacred laws. And a Shudra who lives by washing the feet (of the Brahmin).

Also blind, dumb, deaf and diseased persons (as long as their infirmities last) are exempt from taxes.

To serve the other three castes is ordained for the Shudra. The higher the caste which he serves the greater is the merit. " (B) The *Manu Smriti* has the following:

"Now, for the sake of preserving all this creation, the most glorious (being) ordained separate duties for those who sprang from (his) mouth, arm, thigh and feet.

For Brahmins he ordered teaching, study, sacrifices and sacrificing (as priests) for others, also giving and receiving gifts.

Defence of the people, giving (alms), sacrifice, also study, and absence of attachment to objects of sense, in short for a Kshatriya.

Tending of cattle, giving (alms), sacrifice, study, trade, usury, and also agriculture for a Vaishya.

One duty the Lord assigned to a Shudra—service to those (before-mentioned) classes without grudging."

(ix)

(A) The *Apastamba Dharma Sutra* says :

"A man of one of the first three castes (who commits adultery) with a woman of the Shudra caste shall be banished.

A Shudra (who commits adultery) with a woman of one of the first three castes shall suffer capital, punishment

(B) The *Gautama Dharma Sutra* says:

If (the Shudra) has criminal intercourse with an Aryan woman, his organ shall be cut off and all his property be confiscated.

If (the woman had) a protector (i.e., she was under the guardian-ship of some person) he (the Shudra) shall be executed after having undergone the punishments prescribed above

(C) The *Manu Smriti* says:

If a man (of the Shudra caste) makes love to a girl of the highest caste he deserves corporal punishment.

A Shudra cohabiting with a woman of twice-born castes, whether she be guarded or not guarded, is (to be) deprived of his member and of all his property if she be not guarded and of everything if she is guarded.

For twice-born men, at first, a woman of the same caste is approved for marrying; but of those who act from lust, those of lower caste may in order (be wives).

A Shudra woman alone (is) a wife for a Shudra; both she and a woman of his own caste (are) legally (wives) of a Vaishya; they two and also a woman of his own caste (are wives) of a Kshatriya, both they and a woman of his own caste (are wives) of a Brahmin.

A Shudra wife is not indicated in any history for a Brahmin and Kshatriya, even though they be in distress.

Twice-born men marrying a (Shudra) woman out of infatuation will surely bring quickly (their) families and descendants to the condition of Shudras.

A Brahmin having taken a Shudra woman to his bed goes the lower course; having begotten on her a son, he is surely deprived of his Brahminhood.

Now of (a man) whose offerings towards gods, manes, and guests depend on her, the manes and gods eat not that offering nor does he go to heaven.

An expiation is not prescribed for him who has drunk the moisture on a Shudra woman's lips, who has been reached by her breath, and who has also begotten a son on her.

(x)

(A) The *Vasishtha Dharma Sutra* says :

"One may know that bearing grudges, envy, speaking untruths, speaking evil of Brahmins, backbiting and cruelty are the characteristics of a Shudra."

(B) The *Vishnu Smriti* prescribes that :

(The name to be chosen should be) auspicious in the case of a Brahmin. Indicating power in the case of a Kshatriya. Indicating wealth in the case of a Vaishya. And indicating contempt in the case of a Shudra.

(C) The *Gautama Dharma Sutra* says :

"The Shudra belongs to the fourth caste, which has one birth (only).

And serves the higher (castes). From them he shall seek to obtain his livelihood. He shall use their cast-off shoes. And eat the remnants of their

food.

A Shudra who intentionally reviles twice-born men by Criminal abuse, or criminally assaults them with blows, shall be deprived of the limb with which he offends.

If he assumes a position equal to that of twice-born men in sitting, in lying down, in conversation or on the road, he shall undergo (corporal punishment)"

(D) The Manu Smrid follows suit and says :

"But if a Brahmin through avarice, and because he possesses the power, compel twice-born men, who have received the initiation (into the caste order), to do the work of a slave when they do not wish it, he shall be fined six hundred panas by the king.

But a Shudra, whether bought or not bought (by the Brahmin) may be compelled to practise servitude, for that Shudra was created by the self-existent merely for the service of the Brahmin.

Even if freed by his master, the Shudra is not released from servitude; for this (servitude) is innate in him; who then can take it from him.

Just in proportion as one pursues without complaining the mode of life (practised) by the good, so free from blame, he gains both this and the other world.

Now the supreme duty of a Shudra and that which ensures his bliss is merely obedience toward celebrated priests who understand the Veda and live as householders.

If he be pure, obedient to the higher (castes), mild in speech, without conceit, and always submissive to the Brahmin, he attains (in the next transmigration) a high birth:

Now a Shudra desiring some means of subsistence may serve a Kshatriya, so (is the rule); or the Shudra (if) anxious to support life, (may do so by) serving a wealthy Vaishya.

But he should serve the Brahmins for the sake of heaven, or for the sake of both (heaven and livelihood); for by him (for whom) the word Brahmin (is always) uttered is thus attained the state of completing all he ought to do.

Merely to serve the Brahmins is declared to be the most excellent occupation of a Shudra; for if he does anything other than this it profits him nothing.

His means of life should be arranged by those Brahmins out of their own household (goods) in accordance with what is fitting after examining his ability, cleverness, and (the amount) the dependants embrace.

The leaving of food should be given (to him) and the old clothes, so too the blighted part of the grain, so too the old furniture.

Let a Brahmin's name be auspicious, a Kshatriya's full of power, let a

Vaishya's mean wealth, a Shudra's however be contemptible.

Let a Brahmin's (distinctive title) imply prosperity, a Kshatriya's safeguard, a Vaishya's wealth, a Shudra's service.

If (a man) of one birth assault one of the twice-born castes with virulent words, he ought to have his tongue cut, for he is of the lowest origin.

If he makes mention in an insulting manner of their name and caste, a red-hot iron rod, ten fingers long, should be thrust into his mouth.

If this man through insolence gives instruction to the priests in regard to their duty, the king should cause boiling hot oil to be poured into his mouth and ear.

If a man of the lowest birth should with any member injure one of the highest station, even that member of this man shall be cut (off); this is an ordinance of Manu.

If he lift up his hand or his staff (against him), he ought to have his hand cut off; and if he smites him with his feet in anger, he ought to have his feet cut off.

If a low-born man endeavours to sit down by the side of a high-born man, he should be banished after being branded on the hip, or (the king) may cause his backside to be cut off.

If through insolence he spit upon him, the king should cause his two lips to be cut off; and if he makes water upon him, his penis, and if he breaks wind upon him, his anus.

If he seize him by the locks, let the king without hesitation cause both his hands to be cut off, (also if he seize him) by the feet, the beard, the neck or the testicles.

A man who tears (another's) skin and one who causes blood to be seen ought to be fined five hundred (Panas), if he tears the flesh (he should be fined) six niskas, but if he breaks a bone he should be banished.

(D) The *Narada Smriti* says:

Men of the Shudra caste, who prefer a false accusation against a member of a twice-born Aryan caste, shall have their tongue split by the officers of the king, and he shall cause them to be put on stakes.

A once-born man (or Shudra) who insults members of a twice-born caste with gross invectives, shall have his tongue cut off; for he is of low origin.

If he refers to their name or caste in terms indicating contempt, an iron-rod, ten angulas long, shall be thrust red-hot into his mouth.

If he is insolent enough to give lessons regarding their duty to Brahmins, the king shall order hot oil to be poured into his mouth and ears.

With whatever limb a man of low caste offends against a Brahmin, that very limb of him shall be cut off, such shall be the atonement for his crime.

A low-born man, who tries to place himself on the same seat with his superior

in caste, shall be branded on his hip and banished, or (the king) shall cause his backside to be gashed.

If through arrogance he spits on a superior, the king shall cause both his lips to be cut off; if he makes water on him, the penis; if he breaks wind against him, the buttocks."

III

Such were the laws made against the Shudras by the Brahmanic lawgivers. The gist of them may be summarised under the following heads:

- (1) That the Shudra was to take the last place in the social order.
- (2) That the Shudra was impure and therefore no sacred act should be done within his sight and within his hearing.
- (3) That the Shudra is not to be respected in the same way as the other classes.
- (4) That the life of a Shudra is of no value and anybody may kill him without having to pay compensation and if at all of small value as compared with that of the Brahmana, Kshatriya and Vaishya.
- (5) That the Shudra must not acquire knowledge and it is a sin and a crime to give him education.
- (6) That a Shudra must not acquire property. A Brahmin can take his property at his pleasure.
- (7) That a Shudra cannot hold office under the State.
- (8) That the duty and salvation of the Shudra lies in his serving the higher classes.
- (9) That the higher Classes must not inter-marry with the Shudra. They can however keep a Shudra woman as a concubine But if the Shudra touches a woman of the higher classes he will be liable to dire punishment.
- (10) That the Shudra is born in servility and must be kept in servility for ever.

Anyone who reads this summary will be struck by two considerations. He will be struck by the consideration that Shudra alone has been selected by the Brahmanic law-givers as a victim for their law-making authority. The wonder must be all the greater when it is recalled that in the ancient Brahmanic literature the oppressed class in the ancient Indo-Aryan society was the Vaishya and not the Shudra. In this connection a reference may be made to the *Aitareya Brahmana*. The *Aitareya Brahmana* in telling the story of King Vishvantara and the Shyapama Brahmanas refers to the sacrificial drink to which the different classes are entitled. In the course of the story, it speaks of the Vaishya in the following terms :

"Next, if (the priest brings) curds, that is the Vaishya's draught with it thou shall satisfy the Vaishyas. One like a Vaishya shall be born in thy line, one who is tributary to another, who is to be used- (lit eaten) by another, and who may be oppressed at will.

The question is: why was the Vaishya let off and why the fury directed towards the Shudras ?

He will also be struck by the close connection of the disabilities of the Shudra with the privileges of the Brahmin. The Shudra is below the Traivarnikas and is contrasted with the Traivarnikas. That being so, one would expect all the Traivarnikas to have the same rights against the Shudras. But what are the facts? The facts are that the Kshatriyas and Vaishyas have no rights worth speaking of against the Shudras. The only Traivarnika who has special rights and privileges is the Brahmin. For instance, if the Shudra is guilty of an offence against the Brahmin, the Brahmin has the privilege of demanding a higher punishment than what a Kshatriya or a Vaishya could. A Brahmin could take the property of the Shudra without being guilty of an offence if he needed it for the purpose of performing a sacrifice. A Shudra should not accumulate property because he thereby hurts the Brahmin. A Brahmin should not live in a country where the king is a Shudra. Why is this so? Had the Brahmin any cause to regard the Shudra as his special enemy?.

There is one other consideration more important than these. It is, what does the average Brahmin think of these disabilities of the Shudras? That they are extraordinary in their conception and shameful in their nature will be admitted by all. Will the Brahmin admit it? It would not be unnatural if this catalogue of disabilities may not make any impression upon him. In the first place, by long habit and usage his moral sense has become so dulled that he has ceased to bother about the how and why of these disabilities of the Shudras. In the second place, those of them who are conscious of them feel that similar disabilities have been imposed on particular classes in other countries and there is therefore nothing extraordinary nor shameful in the disabilities of the Shudras. It is the second attitude that needs to be exposed.

This attitude is a very facile one and is cherished because it helps to save reputation and slave conscience. It is, however, no use leaving things as they are. It is absolutely essential to show that these disabilities have no parallel anywhere in the world. It is impossible to compare the Brahmanic Law with every other legal system on the point of rights and disabilities. A comparison of the Brahmanic Law with the Roman Law ought to suffice.

IV

It will be well to begin this comparison by noting the classes which under the

Roman Law had rights and those which suffered from disabilities. The Roman jurists divided men into five categories: (1) Patricians and Plebians; (2) Freemen and Slaves; (3) Citizens and Foreigners; (4) Persons who were *sui juris* and persons who were *alieni juris* and (5) Christians and Pagans.

Under the Roman Law; persons who were privileged were: (1) Patricians; (2) Freeman; (3) Citizens; (4) *Sui juris* and (5) Christians. As compared to these, persons who suffered disabilities under the Roman Law were: (1) the Plebians; (2) Slaves; (3) Foreigners; (4) Persons who were *alieni juris* and (5) Pagans.

A Freeman, who was a citizen under the Roman Law, possessed civil rights as well as political rights. The civil rights of a citizen comprised rights of *connubium* and *commercium*. In virtue of the *connubium*, the citizen could contract a valid marriage according to *the jus civile*, and acquire the rights resulting from it, and particularly the paternal power and the civil relationship called agnation, which was absolutely necessary to enable him in law to succeed to the property of persons who died intestate. In virtue of the *commercium* he could acquire and dispose of property of all kinds, according to the forms and with the peculiar privileges of the Roman Law. The political rights of the Roman citizen included *jus suffragii* and *jus honorum*, the right to vote in public elections and the right to hold office.

The slave differed from the Freeman in as much as he was owned by the master and as such had no capacity to acquire rights.

Foreigners, who were called *Peregrine*, were not citizens and had none of the political or civil rights which went with citizenship. A Foreigner could obtain no protection unless he was under the protection of a citizen.

The *alieni juris* differed from *sui juris* in as much as the former were subject to the authority of another person, while the latter were free from it. This authority was variously called (1) *Potestas*, (2) *Manus* and (3) *Mancipium*, though they had the same effect. *Potestas* under the Roman Law fell into two classes. Persons subject to *Potestas* were (1) slaves, (2) children, (3) wife in *Manus*, (4) debtor assigned to the creditor by the Court and (5) a hired gladiator. *Potestas* gave to one in whom it was vested rights to exclusive possession of those to whom it extended and to vindicate any wrong done to them by anyone else.

The correlative disabilities which persons *alieni juris* suffered as a result of being subject to *Potestas* were: (1) they were not free, (2) they could not acquire property and (3) they could not directly vindicate any wrong or injury done to them.

The disabilities of the Pagans began with the advent of Christianity. Originally, when all the Romans followed the same Pagan worship, religion could occasion no difference in the enjoyment of civil rights. Under the Christian Emperors, heretics and apostates as well as Pagans and Jews, were subjected to vexatious

restrictions, particularly as regards their capacity to succeed to property and to act as witnesses. Only orthodox Christians who recognised the decisions of the four oecumenical councils had the full enjoyment of civil rights.

This survey of rights and disabilities of the Roman Law may well give comfort to Hindus that the Brahmanic Law was not the only law which was guilty of putting certain classes under disabilities, although the disabilities imposed by the Roman Law have nothing of the cruelty which characterises the disabilities imposed by the Brahmanic Law. But when one compares the principles of the Roman Law with those of the Brahmanic Law underlying these disabilities, the baseness of the Brahmanic Law becomes apparent.

Let us first ask: What was the basis of rights and disabilities under the Roman Law. Even a superficial student of Roman Law knows that they were based upon (1) *Caput* and (2) *Existimatio*.

Caput meant the civil status of a person. Civil status among the Romans had reference chiefly to three things; liberty, citizenship and family. The status *libertatis* consisted of being a freeman and not a slave. If a freeman was also a Roman citizen, he enjoyed the *status civitatis*. Upon this quality depended not only the enjoyment of political rights, but the capacity of participating in the *jus civile*. Finally, the *status familice* consisted in a citizen belonging to a particular family, and being capable of enjoying certain rights in which the members of that family, in their quality of agnates, could alone take part.

If an existing status came to be lost or changed, the person suffered what was called a *capitis diminutio*, which extinguished either entirely or to some extent his former legal capacity. There were three changes of state or condition attended with different consequences, called *maxima*, *media*, and *minima*. The greatest involves the loss of liberty, citizenship, and family; and this happened when a Roman citizen was taken prisoner in war, or condemned to slavery for his crimes. But a citizen who was captured by the enemy, on returning from captivity, was restored to all his civil rights *jure postliminii*.

The next change of status consisted of the loss of citizenship and family rights, without any forfeiture of personal liberty; and this occurred when a citizen became a member of another state. He was then forbidden the use of fire and water, so as to be forced to quit the Roman territory, or was sentenced to deportation under the empire.

Finally, when a person ceased to belong to a particular family, without losing his liberty or citizenship, he was said to suffer the least change of state, as for instance, where one *sui juris* came under the power of another by arrogation, or a son who had been under the *patria potestas* was legally emancipated by his father.

Citizenship was acquired first by birth. In a lawful marriage the child followed

the condition of the father, and became a citizen, if the father was so at the time of conception. If the child was not the issue of *justae nuptiae*, it followed the condition of the mother at the time of its birth. Secondly, by manumission, according to the formalities prescribed by law, the slave of a Roman citizen became a citizen. This rule was modified by the laws of Aelia Sentia and Junia Norbana, according to which, in certain cases, the freedman acquired only the status of a foreigner, *peregrinus dedititius* or of a Latin, *Latinus Junianus*, Justinian restored the ancient principle, according to which every slave, regularly enfranchised, became in full right a Roman citizen. Thirdly, the right of citizenship was often granted as a favour, either to a whole community or to an individual, by the people or the senate during the republic, and by the reigning prince during the empire; and this was equivalent to what the moderns call naturalisation.

Citizenship was lost—Firstly, by the loss of liberty—as, for instance, when a Roman became a prisoner of war, secondly, by renouncing the character of Roman citizen, which took place when anyone was admitted a citizen of another state; thirdly, by a sentence of deportation or exile, as a punishment for crime.

The civil status of a person under the Roman Law may or may not be *civis optimo jure*. *Civis optimo jure* included not only capacity for civil rights but also capacity for political rights such as *jus suffragii et honorum*, i.e., the right to vote and the capacity to hold a public office. Capacity for political rights depended upon *existimatio*. *Existimatio* means reputation in the eye of the law. A Roman citizen may have *caput* as well as *existimatio*. On the other hand, a Roman may have *caput* but may not have *existimatio*. Whoever had *caput* as well as *existimatio* had civil rights as well as political rights. Whoever had *caput* but had no *existimatio* could claim civil rights only. He could not claim political rights.

A person's *existimatio* was lost in two ways. It was lost by loss of freedom or by conviction for an offence. If a person lost his freedom his *existimatio* was completely extinguished. Loss of *existimatio* by conviction for offence varied according to the gravity of the offence. If the offence was serious the diminution of his *existimatio* was called *infamia*. If the offence was less grave it was called *turpitude*, *Infamia* resulted in the extinguishment of *existimatio*. Under the Roman Law a defendant, in addition to ordinary damages, was subjected to *infamia*. Condemnation for theft, robbery, *injuria* or fraud, entailed infamy. So a partner, a *mandatarius*, a *depositarius*, *tutor*, a mortgagee (in *contractus fiduciae*) if condemned for wilful breach of duty, was held to be infamous.

The consequence of *infamia* was exclusion from political rights: not merely from office (honours), but even from the right to vote in elections (*suffragium*).

From this brief survey of the basis of rights and disabilities in Roman Law, it will be clear that the basis was the same for all. They did not differ from community

to community. Rights and disabilities according to Roman Law were regulated by general considerations, such as *caput* and *existimatio*. Whoever had *caput* and *existimatio* had rights. Whoever lost his *caput* and his *existimatio* suffered disabilities. What is the position under the Brahmanic Law? There again, it is quite clear that rights and disabilities were not based on general uniform considerations. They were based on communal considerations. All rights for the first three *Varnas* and all disabilities for the Shudras was the principle on which the Brahmanic Law was based.

The protagonists of Brahmanic Laws may urge that this comparison is too favourable to Roman Law and that the statement that Roman Law did not distribute rights and liabilities on communal basis is not true. This may be conceded. For so far as the relation between the Patricians and Plebians was concerned the distribution of rights and liabilities was communal. But in this connection the following facts must be noted.

In the first place, it must be noted that Plebians were not slaves. They were freemen in as much as they enjoyed *jus commercii* or the right to acquire, hold and transfer property. Their disabilities consisted in the denial of political and social rights. In the second place, it must be noted that their disabilities were not permanent. There were two social disabilities from which they suffered. One arose from the interdict on intermarriage between them and the Patricians imposed by the Twelve Tables. This disability was removed in B.C. 445 by the passing of the Canulian Law which legalized intermarriage between Patricians and Plebians. The other disability was their ineligibility to hold the office of Pontiffs and Augurs in the Public Temples of Rome. This disability was removed by the Ogulian Law passed in B.C. 300.

As to the political disabilities of the Plebians they had secured the right to vote in popular assemblies (*jus suffragii*) under the Constitution of Servius Tullius the Sixth King of Rome. The political disabilities which had remained unredressed were those which related to the holding of office. This too was removed in course of time after the Republic was established in B.C. 509. The first step taken in this direction was the appointment of Plebian Tribunes in B.C. 494; the Questorship was opened to them, formally in B.C. 421; actually in B.C. 409; the Consulship in B.C. 367; the curule-aedileship in B.C. 366; the dictatorship in B.C. 356; the Censorship in B.C. 351; and the Praetorship in B.C. 336. The Hortensian Law enacted in B.C. 287 marked a complete triumph for the Plebians. By that law the resolutions of the Assembly of the tribes were to be directly and without modification, control or delay, binding upon the whole of the Roman people.

This marks a complete political fusion of Patricians and Plebians on terms of equality.

Not only were the Plebians placed on the same footing as to political capacity

and social status with the Patricians but the road to nobility was also thrown open to them. In Roman society, birth and fortune were the two great sources of rank and personal distinction. But in addition to this, the office of Curule Magistracy was also a source of ennoblement to the holder thereof. Every citizen, whether Patrician or Plebian, who won his way to a Curule Magistracy, from that AEdile upwards, acquired personal distinction, which was transmitted to his descendants, who formed a class called *Nobiles*, or men known, to distinguish them from the *ignobiles*, or people who were not known. As the office was thrown open to the Plebians, many Plebians had become nobles and had even surpassed the Patricians in point of nobility.

It may be that the Roman Law did recognise communal distinction in distributing rights and disabilities. The point is that the disabilities of the Plebians were not regarded as permanent. Although they existed they were in course of time removed. That being so, the protagonists of Brahmanic Law cannot merely take solace in having found a parallel in the Roman Law but have to answer why the Brahmanic Law did not abolish the distinction between the Traivarnikas and the Shudras as the Roman Law did by equating the Plebians with the Patricians? One can therefore contend that the Roman Law of rights and disabilities was not communal while the Brahmanic Law was.

This is not the only difference between the Roman Law and the Brahmanic Law. There are two others. One is equality before law in criminal matters. The Roman Law may not have recognised equality in matters of civil and political rights. But in matters of criminal law it made no distinction between one citizen and another, not even between Patrician and Plebian. The same offence the same punishment, no matter who the complainant and who the accused was. Once an offence was proved, the punishment was the same. What do the *Dharma Sutras* and the *Smritis* do? They follow an entirely different principle. For the same offence the punishment varies according to the community of the accused and the community of the complainant. If the complainant is a Shudra and the accused belonged to any one of the three classes the punishment is less than what it would be if the relations were reversed. On the other hand, if the complainant was Traivarnika and the accused a Shudra, the punishment is far heavier than in the first case. This is another barbarity which distinguishes the Brahmanic Law from the Roman Law.

The next feature of the Roman Law which distinguishes it from the Brahmanic Law is most noteworthy. It relates to the extinction of disabilities. Two points need be borne in mind. First is that the disabilities under the Roman Law were only contingent. So long as certain conditions lasted, they gave rise to certain disabilities. The moment the conditions changed, the disabilities vanished and a step in the direction of equality before law was taken. The second point is that

the Roman Law never attempted to fix the conditions for ever and thereby perpetuate the disabilities. On the other hand, it was always ready to remove the conditions to which these disabilities were attached as is evident in the case of the Plebians, the Slaves, the Foreigners and the Pagans.

If these two points about the disabilities under the Roman Law are borne in mind, one can at once see what mischief the *Dharma Sutras* and the *Smritis* have done in imposing the disabilities upon the Shudras. The imposition of disabilities would not have been so atrocious if the disabilities were dependent upon conditions and if the disabled had the freedom to outgrow those conditions. But what the Brahmanic Law does is not merely to impose disabilities but it tries to fix the conditions by making an act which amounts to a breach of those conditions to be a crime involving dire punishment. Thus, the Brahmanic Law not only seeks to impose disabilities but it endeavours to make them permanent. One illustration will suffice. A Shudra is not entitled to perform Vedic sacrifices as he is not able to repeat the Vedic *Mantras*. Nobody would quarrel with such a disability. But the Dharma Sutras do not stop here. They go further and say that it will be a crime for a Shudra to study the Vedas or hear it being pronounced and if he does commit such a crime his tongue should be cut or molten lead should be poured into his ear. Can anything be more barbarous than preventing a man to grow out of his disability? What is the explanation of these disabilities? Why did the Brahmanic Law-givers take such a cruel attitude towards the Shudras? The Brahmanic Law books merely state the disabilities. They say that the Shudras have no right to *Upanayana*. They say that the Shudras shall hold no office. They say that the Shudras shall not have property. But they do not say why. The whole thing is arbitrary. The disabilities of the Shudra have no relation to his personal conduct. It is not the result of infamy. The Shudra is punished just because he was a Shudra. This is a mystery which requires to be solved. As the Brahmanic Law books do not help us to solve it, it is necessary to look for explanation elsewhere.

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